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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,101	03/15/2004	Mark K. Gregory	010686-0168	9256
26371	7590	01/18/2005		
FOLEY & LARDNER 777 EAST WISCONSIN AVENUE SUITE 3800 MILWAUKEE, WI 53202-5308			EXAMINER GUSHI, ROSS N	
			ART UNIT 2833	PAPER NUMBER

DATE MAILED: 01/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

Office Action Summary

Application No.

10/801,101

Applicant(s)

GREGORY ET AL.

Examiner

Ross N. Gushi

Art Unit

2833

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-20, 31, 32 is/are allowed.
- 6) ☒ Claim(s) 1, 21-26, 29, 30 is/are rejected.
- 7) ☒ Claim(s) 2-9, 27, 28 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/15/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in —

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a);

Claims 1, 21, 22, 23, 28, 29, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Gurtler. Per claim 1, Gurtler discloses a battery terminal comprising: a body having a top surface, an opposing bottom surface, and a first groove (between ribs 10) extending within the body proximate the bottom surface.

Per claim 21, Gurtler discloses a battery comprising a terminal including a groove (at ribs 9, 10) extending 360 degrees therearound, the groove including a base and an opening; a plastic housing having an outer surface and an inner surface defining an interior, the terminal being molded within the plastic housing and having a portion extending outwardly from one outer surface of the plastic housing, the plastic housing having a sealing bead extending into the opening of the groove and filling the area within the groove.

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Per claim 22, the groove defines a groove vector extending substantially perpendicular through the area defined by the groove opening, the groove vector being substantially perpendicular to the one outer surface of the plastic housing.

Per claim 23, the plastic container includes an edge proximate the groove.

Per claim 28, the opening of the groove has a first width that is at least as great as the width of any other portion of the groove.

Per claim 29, the groove is proximate the outer surface of the container.

Per claim 30, the terminal includes a second groove proximate the inner surface of the container.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24, 25, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gurtler as in claims 22.

Regarding claims 24, 25, and 26, the claimed variations in relative dimensions, which do not specify a device which performs or operates any differently from the prior art, do not patentably distinguish applicant's invention. Gardner v. TEC Systems, Inc., 725 F.2d 1338 (Ct. App. Fed. Cir. 1984). The particular dimensions of the device would have been a matter of engineering design choice.

Allowable Subject Matter

Claims 2-9, 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 10-20, 31 and 32 are allowable.

The following is a statement of reasons for the indication of allowable subject matter: Regarding claims 2, 10, 17, and 27, the prior art does not suggest the devices as claimed, including the combination of all the claimed elements, the combination including that the groove includes a portion having a width and an opening having a width less than the portion width.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ross Gushi whose telephone number is (571) 272-2005. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Paula A. Bradley, can be reached at 571-272-2800 extension 33. The phone number for the Group's facsimile is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ROSS GUSHI
PRIMARY EXAMINEE

